

After Recording Return to:  
Town Manager  
Town of Prosper  
P. O. Box 307  
Prosper, Texas 75078

**SEWER DEVELOPMENT AGREEMENT**  
(LAKEWOOD AT BROOKHOLLOW PHASE 3)

**THIS SEWER DEVELOPMENT AGREEMENT** (the “Agreement”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between **HH LAKEWOOD LLC**, a Delaware limited liability company (“Developer”), and the **TOWN OF PROSPER, TEXAS**, a Texas home-rule municipality (“Town”), on the terms and conditions hereinafter set forth.

**W I T N E S S E T H:**

**WHEREAS**, Developer owns approximately 52.069 acres of land, more or less, situated in the James Stone Survey, Abstract No. 847 and the Isaac C. Williamson Survey, Abstract No. 948, Town of Prosper, Collin County, Texas, as more particularly described and depicted on Exhibit A, attached hereto and incorporated herein by reference (the “Property”); and

**WHEREAS**, pursuant to the Water and Wastewater Improvement Plan, Ordinance No. 11-71 (the “Master Sewer Plan”), Developer desires to, subject to the terms and conditions set forth herein, construct certain Sewer Improvements (as defined in Paragraph 3 below) to serve the Property;

**WHEREAS**, Developer desires to fulfill its obligation to pay Sewer Impact Fees (as defined in Paragraph 4, below) as prescribed in Article 10.02 of Chapter 10 of the Town’s Code of Ordinances, as amended ( the “Impact Fee Ordinance”); and

**WHEREAS**, subject to the terms and provisions hereof, the parties agree that Developer may fulfill its obligation to pay Sewer Impact Fees in the manner set forth below.

**NOW, THEREFORE**, in consideration of the covenants and conditions contained in this Agreement, Town and Developer agree as follows:

1. **Land Subject to Agreement.** The land that is subject to this Agreement is the Property. Developer represents that it is the sole owner of the Property.

2. **Easements.** (a) The parties shall cooperate with each other in obtaining from third parties any and all easements, including, but not limited to, the easements depicted and described on Exhibit B (the “Third Party Sewer Improvement Easements”) necessary or appropriate, as solely determined by Town, for timely construction, completion and dedication of the Sewer Improvements required herein. The Third Party Sewer Improvement Easements will be obtained as follows:

(i) **Developer’s Responsibilities.** Developer shall be responsible for any and all costs and expenses associated with acquiring, by purchase or condemnation, all Third Party Sewer Improvement Easements, including, but not limited to, title work, appraisals,

expert fees, attorneys' fees and expenses, engineering fees and expenses, surveying fees and expenses, court costs, commissioner's fees and costs of appeal, if any ("Easement Acquisition Fees"). If requested by Town, Developer shall, at its sole cost and expense, lead all easement acquisition efforts for the Third Party Sewer Improvement Easements, including, but not limited to, providing all necessary engineering and surveying support required to obtain the Third Party Sewer Improvement Easements as required herein. Developer shall pay any and all Easement Acquisition Fees within seven (7) calendar days of receiving a written request from Town for the same.

(ii) Town's Rights and Responsibilities. Town will, at Developer's sole cost and expense, provide, among any other assistance deemed necessary by Town, technical, engineering, legal and administrative assistance, as selected by Town, to acquire, by purchase or condemnation, the Third Party Sewer Improvement Easements. Town shall review and approve any and all documents associated with the Third Party Sewer Improvement Easements required herein. If Town determines, in its sole discretion, that condemnation proceedings are necessary to secure the Third Party Sewer Improvement Easements, Town shall have the right to, at Developer's sole cost and expense, take any and all steps Town deems necessary to initiate said proceedings.

(b) The Third Party Sewer Improvement Easements (if any) shall be filed and recorded prior to the commencement of construction of the Sewer Improvements or any portion thereof, unless a Right of Entry is secured, a condemnation award is tendered with the registry of the court and/or a right of possession by any other means is obtained on an earlier date.

(c) If the Third Party Sewer Improvement Easements are not obtained, or the Town has not secured the right to possess, in a form acceptable to the Town, the land made the subject of the Third Party Sewer Improvement Easements, within ninety (90) days after the execution hereof on terms acceptable to Town, then Town shall commence, and thereafter diligently pursue to completion, condemnation proceedings to obtain such Third Party Sewer Improvement Easements as soon as reasonably possible. Notwithstanding anything to the contrary herein, Town may, in its sole discretion, initiate condemnation proceedings prior to the expiration of the ninety (90) days referred to in this Paragraph 2(c).

(d) Notwithstanding the foregoing, Town and Developer agree that all Third Party Sewer Improvement Easements have been obtained and filed of record in Collin County, Texas as of the date hereof.

3. Sewer Improvements. (a) Developer shall, at its sole cost and expense except as provided in Paragraph 4 below, construct and install a twelve-inch (12") PVC Sewer line that is depicted on Exhibit C attached hereto and incorporated herein for all purposes, in accordance with the Master Sewer Plan, and (ii) in accordance with engineering plans, specifications and designs approved in writing by Town's engineer, which approval shall not be unreasonably withheld or delayed (the "Sewer Improvements").

(b) Developer shall bid the construction of the Sewer Improvements with three (3) qualified contractors and shall provide copies of the bids received for such items to Town within five (5) business days of Developer's receipt of same. Developer shall: (i) execute a contract for the construction of the Sewer Improvements with the lowest responsible bidder, as mutually and reasonably determined by Town and Developer; (ii) commence, or cause to be commenced,

construction of the Sewer Improvements within ten (10) business days following execution of a contract for construction of the Sewer Improvements or otherwise as soon as reasonably possible in accordance with the accepted bid; (iii) construct the Sewer Improvements in accordance with the Town-approved engineering plans, specifications and designs; and (iv) complete the Sewer Improvements and obtain Town's acceptance of same.

(c) Notwithstanding the foregoing, Town and Developer agree that all Sewer Improvements have been constructed as of the date hereof.

(d) Developer represents that the cost of constructing the Sewer Improvements was Two Hundred Fourteen Thousand Seven Hundred Eighty-Five and 30/100 Dollars (\$214,785.30), as more particularly described in Exhibit D, attached hereto and incorporated herein for all purposes (the "Construction Costs"). Prior to receiving any credit and/or reimbursement described in Paragraph 4 below, Developer shall tender to Town evidence, in a form(s) reasonably acceptable to Town, that all of the Sewer Improvements construction costs have been paid by Developer, including but not limited to, Affidavits of Payment/Affidavits as to Debts and Liens and any other evidence reasonably required by Town ("Evidence of Payment(s)").

#### 4. **Reimbursement for Construction Costs.**

(a) Pursuant to the Impact Fee Ordinance, the sewer impact fees owed on the Property are Five Hundred Twenty-Four Thousand Eight Hundred Ninety-Two and 00/100 Dollars (\$524,892.00) (the "Sewer Impact Fees").

(b) The Property will receive reimbursement against the Sewer Impact Fees owed on the Property in an amount equal to the Construction Costs (the "Credit").

(c) Town will forward the collected Sewer Impact Fees to Developer, quarterly and as applicable, on or about January 15, April 15, July 15, and October 15 of each year beginning the first quarterly date after the Town accepts the Sewer Improvements

(d) (d) The credit of Sewer Impact Fees and reimbursement of collected Sewer Impact Fees will cease when the amount tendered, through the credit of Sewer Impact Fees and reimbursement of collected Sewer Impact Fees, to Developer equals the Construction Costs. Except as otherwise provided in this subparagraph, the Property will be subject to the Impact Fee Ordinance.

5. **Default.** If Developer fails to comply with any provision of this Agreement after receiving thirty (30) days written notice to comply from Town or such longer period as may be reasonably necessary provided that Developer commences to cure the default or breach within the 30-day period and proceeds with reasonable diligence thereafter to complete such cure, then so long as such default continues and is not cured, Town shall have the following remedies, in addition to Town's other rights and remedies:

(a) to refuse to issue building permits for the Property; and/or

(b) to refuse to accept the Sewer Improvements; and/or

(c) to refuse, without notice and/or any other action, to issue the Credit; and/or

(d) to construct and/or complete the Sewer Improvements and to recover any and all reasonable costs and expenses associated with the construction and/or completion of same (not to exceed the Credit); and/or

(e) to seek specific enforcement of this Agreement.

In the event Town fails to comply with the terms and conditions of this Agreement, Developer may seek specific enforcement of this Agreement as its sole and exclusive remedy.

6. **Acknowledgements/Release/Waiver.** Developer agrees and acknowledges that: (i) Town is entering into this Agreement based on Developer's representations and warranties set forth herein with regard to the sewer service needed to serve the Property; (ii) Town makes no representations whatsoever with regard to the completion of the Sewer Improvements, other than that Town agrees to process Developer's request for acceptance of the Sewer Improvements in a similar manner as the Town normally processes such requests; (iii) all necessary Sewer Improvements have been completed and/or secured so as to serve the Property; and (iv) until acceptance of the Sewer Improvements as provided in this Agreement, Town is not required to and will not release any building permits and/or any Certificates of Occupancy. This paragraph shall survive the termination of this Agreement.

7. **Limitation of Liability.** Notwithstanding anything to the contrary herein, the parties agree and acknowledge that Town shall not, under any circumstance, be required to tender, and/or be liable to Developer for, any reimbursement of and/or payment of any monies with regard to the matters set forth herein, save and except as provided in Paragraph 4 above.

8. **Covenant Running with Land.** This Agreement shall be a covenant running with the land and the Property and shall be binding upon and inure to the benefit of Developer, and its successors and assigns. In addition, the parties shall cause this Agreement to be filed in the Land Records of Collin County, Texas. Notwithstanding the foregoing, the obligations herein that burden the Property shall be released automatically upon acceptance by the Town of the Sewer Improvements as set forth in this Agreement, provided that the foregoing shall not release Town from providing the Credit as described in Paragraph 4 above. Any third party, including any title company, grantee or lien holder, shall be entitled to rely on the immediately preceding sentence to establish whether such termination has occurred with respect to any lot. The Town agrees to execute and deliver, in recordable form, a form of release or other evidence of termination as Developer may reasonably request and that is reasonably satisfactory to Town.

9. **Limitations of Agreement.** The parties hereto acknowledge that this Agreement is limited to the Credit. Town ordinances covering property taxes, utility rates, permit fees, inspection fees, development fees, thoroughfare fees, park fees, tap fees, pro-rata fees and the like are not affected by this Agreement. Further, this Agreement does not waive or limit any of the obligations of Developer to Town under any other ordinance, whether now existing or in the future arising.

10. **Notices.** Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such party via facsimile or a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the parties shall be as follows:

If to Town, addressed to it at:

Town of Prosper  
Att'n: Town Manager  
P. O. Box 307  
250 W. First Street  
Prosper, Texas 75078  
Telephone: (972) 346-2640  
Facsimile: (972) 347-2111

With a copy to:

Brown & Hofmeister, L.L.P.  
Att'n: Terrence S. Welch  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081  
Telephone: (214) 747-6100  
Facsimile: (214) 747-6111

If to Developer, addressed to it:

c/o Hines Interests Limited Partnership  
2200 Ross Avenue, Suite 4200W  
Dallas, TX 75201  
Attention: Rob Witte & Dustin Davidson  
Fax: (214) 777-5308

With a copy to:

Thompson & Knight LLP  
One Arts Plaza  
1722 Routh Street, Suite 1500  
Dallas, Texas 75201  
Attention: Ted M. Benn & David Rusk  
Fax: (214) 969-1751 (Ted) & (832) 397-8131 (David)  
Email: ted.benn@tklaw.com & david.rusk@tklaw.com

11. **INDEMNIFICATION.** (A) **DEVELOPER DOES HEREBY AGREE TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS TOWN AND ITS TOWN COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES FROM AND AGAINST ALL DAMAGES,**

INJURIES (INCLUDING DEATH), CLAIMS, PROPERTY DAMAGES (INCLUDING LOSS OF USE), LOSSES, DEMANDS, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY), ASSERTED AGAINST TOWN BY ANY THIRD PARTY TO THE EXTENT ARISING FROM AND CAUSED BY THE NEGLIGENT, GROSSLY NEGLIGENT, AND/OR INTENTIONAL ACT AND/OR OMISSION OF DEVELOPER, ITS OFFICERS, DIRECTORS, PARTNERS CONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEEES, TRUSTEES, SUBCONTRACTORS, LICENSEES, INVITEES OR ANY OTHER THIRD PARTIES FOR WHOM DEVELOPER IS LEGALLY RESPONSIBLE, IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, THE CONSTRUCTION OF THE SEWER IMPROVEMENTS, IN WHOLE OR IN PART, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OR STRICT LIABILITY OF TOWN (HEREINAFTER "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST TOWN BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN DEVELOPER, AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE DEVELOPER, INCLUDING BUT NOT LIMITED TO, ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE. IN THIS CONNECTION, DEVELOPER AGREES TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS TOWN, ITS TOWN COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES, FOR TOWN'S, ITS TOWN COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND/OR EMPLOYEES, OWN NEGLIGENCE, IN WHATEVER FORM, ARISING OUT OF ANY ACT OR OMISSION, TAKEN OR FAILED TO BE TAKEN BY THE TOWN, RELATING TO THE MATTERS FOR WHICH IT IS INDEMNIFIED UNDER THIS PARAGRAPH, IN WHOLE OR IN PART, REGARDLESS OF CAUSE OR ANY CONCURRENT OR CONTRIBUTING FAULT OR NEGLIGENCE OF TOWN. DEVELOPER IS EXPRESSLY REQUIRED TO DEFEND TOWN AGAINST ALL CLAIMS, AND TOWN IS REQUIRED TO REASONABLY COOPERATE AND ASSIST DEVELOPER IN PROVIDING SUCH DEFENSE; PROVIDED, HOWEVER, IF A

COURT OF COMPETENT JURISDICTION SIGNS A JUDGMENT THAT BECOMES FINAL AND NON-APPEALABLE, DETERMINING THAT TOWN (WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY) HAS JOINT, CONCURRENT OR SOLE NEGLIGENCE FOR THE CLAIMS, IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS (THE “JUDGMENT”), THEN DEVELOPER IS NOT REQUIRED TO INDEMNIFY OR DEFEND TOWN TO THE EXTENT OF THE NEGLIGENCE APPORTIONED TO TOWN FOR EACH CAUSE(S) OF ACTION IDENTIFIED IN THE JUDGMENT. IN THE EVENT THE JUDGMENT PROVIDES THAT TOWN IS JOINTLY, CONCURRENTLY, OR SOLELY NEGLIGENT FOR THE CLAIMS REFERRED TO THEREIN, TOWN AGREES TO REIMBURSE DEVELOPER FOR ALL REASONABLE AND NECESSARY COSTS INCURRED AND PAID BY DEVELOPER THAT ARE ATTRIBUTABLE TO TOWN’S PERCENTAGE OF JOINT, CONCURRENT, OR SOLE NEGLIGENCE, AS SET FORTH IN THE JUDGMENT, INCLUDING REASONABLE AND NECESSARY ATTORNEY’S FEES AND EXPENSES, TO DEVELOPER WITHIN ONE HUNDRED TWENTY (120) DAYS OF THE DATE OF THE JUDGMENT. NOTWITHSTANDING THE INDEMNIFICATION PROVISIONS SET FORTH IN THIS PARAGRAPH, TOWN SHALL DILIGENTLY AND TIMELY ASSERT ALL REASONABLE DEFENSES (INCLUDING WITHOUT LIMITATION GOVERNMENTAL IMMUNITY AND DEFENSES OTHERWISE AVAILABLE TO THE CITY AS A MUNICIPAL CORPORATION) AGAINST ANY THIRD-PARTY CLAIM THAT TOWN BELIEVES IS COVERED BY THE INDEMNITY IN THIS PARAGRAPH. NOTHING CONTAINED HEREIN, HOWEVER, SHALL BE CONSTRUED AS A WAIVER OF TOWN’S GOVERNMENTAL IMMUNITY TO ANY EXTENT GREATER THAN IS PROVIDED UNDER TEXAS LAW.

(B) IN ITS SOLE DISCRETION, TOWN SHALL HAVE THE RIGHT TO REASONABLY APPROVE DEFENSE COUNSEL TO BE RETAINED BY DEVELOPER IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY TOWN, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY TOWN IN WRITING. TOWN RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE AT ITS COST; HOWEVER, TOWN IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY TOWN IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER’S OBLIGATION TO DEFEND TOWN OR AS A WAIVER OF DEVELOPER’S OBLIGATION TO INDEMNIFY TOWN PURSUANT TO THIS AGREEMENT.

(C) THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

**12. PARTIES’ ACKNOWLEDGEMENT OF TOWN’S COMPLIANCE WITH FEDERAL AND STATE CONSTITUTIONS, STATUTES AND CASE LAW AND FEDERAL, STATE AND LOCAL ORDINANCES, RULES AND REGULATIONS/DEVELOPER’S WAIVER AND RELEASE OF CLAIMS FOR OBLIGATIONS IMPOSED BY THIS AGREEMENT.**

(A) DEVELOPER ACKNOWLEDGES AND AGREES THAT:

(I) THE SEWER IMPROVEMENTS AND/OR THE FEES TO BE IMPOSED BY TOWN REGARDING THE PROPERTY, IN WHOLE OR IN PART, DO NOT CONSTITUTE A:

- (A) TAKING UNDER THE TEXAS OR UNITED STATES CONSTITUTION;
  - (B) VIOLATION OF THE TEXAS WATER CODE, AS IT EXISTS OR MAY BE AMENDED;
  - (C) NUISANCE; AND/OR
  - (D) CLAIM FOR DAMAGES AND/OR REIMBURSEMENT AGAINST TOWN FOR A VIOLATION OF ANY FEDERAL AND/OR STATE CONSTITUTION, STATUTE AND/OR CASE LAW AND/OR FEDERAL, STATE AND/OR LOCAL ORDINANCE, RULE AND/OR REGULATION.
- (II) THE AMOUNT OF DEVELOPER'S FINANCIAL OR INFRASTRUCTURE CONTRIBUTION (AFTER RECEIVING ALL CONTRACTUAL OFFSETS, CREDITS AND REIMBURSEMENTS, IF ANY) AGREED TO IN THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE DEMAND THAT SUCH DEVELOPER'S DEVELOPMENT PLACES ON THE TOWN'S INFRASTRUCTURE.
- (III) DEVELOPER HEREBY AGREES THAT ANY PROPERTY WHICH IT CONVEYS TO TOWN PURSUANT TO THIS AGREEMENT IS ROUGHLY PROPORTIONAL TO THE BENEFIT RECEIVED BY DEVELOPER FOR SUCH LAND, AND DEVELOPER HEREBY WAIVES ANY CLAIM THEREFOR THAT IT MAY HAVE. DEVELOPER FURTHER ACKNOWLEDGES AND AGREES THAT ALL PREREQUISITES TO SUCH A DETERMINATION OF ROUGH PROPORTIONALITY HAVE BEEN MET, AND THAT ANY VALUE RECEIVED BY TOWN RELATIVE TO SAID CONVEYANCE ARE RELATED BOTH IN NATURE AND EXTENT TO THE IMPACT OF THE DEVELOPMENT OF DEVELOPER'S ADJACENT PROPERTY ON TOWN'S INFRASTRUCTURE. DEVELOPER AND TOWN FURTHER AGREE TO WAIVE AND RELEASE ALL CLAIMS ONE MAY HAVE AGAINST THE OTHER RELATED TO ANY AND ALL ROUGH PROPORTIONALITY AND INDIVIDUAL DETERMINATION REQUIREMENTS MANDATED BY THE UNITED STATES SUPREME COURT IN *DOLAN V. CITY OF TIGARD*, 512 U.S. 374 (1994), AND ITS PROGENY, AS WELL AS ANY OTHER REQUIREMENTS OF A NEXUS BETWEEN DEVELOPMENT CONDITIONS AND THE PROJECTED IMPACT OF THE PUBLIC INFRASTRUCTURE.
- (IV) DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS TOWN FROM ANY CLAIMS AND SUITS OF THIRD PARTIES, INCLUDING BUT NOT LIMITED TO DEVELOPER'S RESPECTIVE PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEEES, AND/OR TRUSTEES, BROUGHT PURSUANT TO THIS PARAGRAPH.
- (B) DEVELOPER RELEASES TOWN FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION BASED ON EXCESSIVE OR ILLEGAL EXACTIONS.
- (C) DEVELOPER WAIVES ANY CLAIM FOR DAMAGES AND/OR REIMBURSEMENT AGAINST TOWN FOR A VIOLATION OF ANY FEDERAL AND/OR STATE



CONSTITUTION, STATUTE AND/OR CASE LAW AND/OR FEDERAL, STATE AND/OR LOCAL ORDINANCE, RULE AND/OR REGULATION.

(D) THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

13. **Vested Rights/Chapter 245 Waiver.** The signatories hereto shall be subject to all ordinances of Town, whether now existing or in the future arising. This Agreement shall confer no vested rights on the Property, or any portion thereof, unless specifically enumerated herein. In addition, nothing contained in this Agreement shall constitute a “permit” as defined in Chapter 245, Texas Local Government Code, and nothing in this Agreement provides Town with fair notice of any Developer’s project. **DEVELOPER WAIVES ANY STATUTORY CLAIM UNDER CHAPTER 245 OF THE TEXAS LOCAL GOVERNMENT CODE UNDER THIS AGREEMENT. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.**

14. **Attorney’s Fees.** In any legal proceeding brought to enforce the terms of this Agreement, including but not limited to, a proceeding brought pursuant to Paragraphs 5, 6, 11 and 12 above, the prevailing party may recover its reasonable and necessary attorney’s fees from the non-prevailing party as permitted by Section 271.159 of the Texas Local Government Code, as it exists or may be amended.

15. **Incorporation of Recitals.** The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby incorporated into the body of this Agreement and adopted as findings of Town and the authorized representative of Developer.

16. **Developer’s Warranties/Representations.** All warranties, representations and covenants made by Developer in this Agreement or in any certificate or other instrument delivered by Developer to Town under this Agreement shall be considered to have been relied upon by Town and will survive the satisfaction of any fees under this Agreement, regardless of any investigation made by Town or on Town’s behalf.

17. **Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the parties hereto.

18. **Venue.** This Agreement shall be construed in accordance with the laws of the State of Texas and shall be performable in Collin County, Texas.

19. **Consideration.** This Agreement is executed by the parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

20. **Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. A facsimile signature will also be deemed to constitute an original if properly executed.

21. **Authority to Execute.** The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and

necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

22. **Savings/Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

23. **Representations.** Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had an opportunity to confer with its counsel.

24. **Sovereign Immunity.** The parties agree that this is not a contract for the provision of goods or services pursuant to Subchapter I of Chapter 271 of the Texas Local Government Code, as amended, and therefore, the Town has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

25. **No Third Party Beneficiaries.** Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third party beneficiaries by entering into this Agreement.

26. **Assignment/Binding Effect.** This Agreement is assignable upon the following conditions:

- (a) the assignment of the Agreement must be evidenced by a recordable document pursuant to which the assignee assumes all obligations of Developer hereunder;
- (b) Developer will file any executed assignment in the Land Records of Collin County, Texas; and
- (c) Developer shall provide Town with the name, address, phone number, fax number and the name of a contact person for the assignee.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, as authorized herein.

27. **Indemnification.** The parties agree that the Indemnity provisions set forth in Paragraphs 11 and 12 herein are conspicuous, and the parties have read and understood the same.

28. **Construction.** All construction described herein shall be subject to and in compliance with all ordinances of Town, whether now existing, hereafter amended or in the future arising. Evidence of any bonds required by Section 212.073 of the Texas Local Government Code, or other applicable law, shall be provided by Developer to Town.

29. **Conveyances.** All conveyances required herein shall be made in a form acceptable to Town and free and clear of any and all encumbrances.

30. **Waiver.** Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance.

31. **Reference to Developer.** When referring to "Developer" herein, this Agreement shall refer to and be binding upon and inure to the benefit of, Developer, and its successors and assignees.

32. **Attorney's Fees.** Developer agrees to pay, or cause to be paid, to Town any attorney's fees charged to Town by Town's legal counsel for, among other things, legal review and revision of this Agreement and all further agreements, ordinances or resolutions contemplated by this Agreement, negotiations and discussions with Developer's attorney and the provision of advice to applicable Prosper Town Staff and the Prosper Town Council, in an amount not to exceed \$2,500.00 within ten (10) days upon receipt of an invoice of same from Town.

33. **Miscellaneous Drafting Provisions.** This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.

**[SIGNATURE PAGE TO FOLLOW.]**

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective on the latest date as reflected by the signatures below.

**TOWN:**

TOWN OF PROSPER, TEXAS

By: \_\_\_\_\_  
Harlan Jefferson, Town Manager

Date: \_\_\_\_\_

STATE OF TEXAS                    §  
  §  
COUNTY OF COLLIN               §

BEFORE ME, the undersigned authority, on this day personally appeared Harlan Jefferson, known to me to be one of the persons whose names are subscribed to the foregoing instrument; he acknowledged to me he is the duly authorized representative for the **TOWN OF PROSPER, TEXAS**, and he executed said instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public in and for the State of Texas

My Commission Expires: \_\_\_\_\_

**DEVELOPER:**


HH Lakewood LLC, a Delaware limited liability company

By: Hines Lakewood MM LLC, its managing member

By: Hines Lakewood Associates LP, its sole member

By: Hines Interests Limited Partnership, its general partner

By: Hines Holdings, Inc., its general partner

*HB*  
By:   
Name: Robert W. Witte  
Title: Senior Managing Director

STATE OF TEXAS                   §  
  §  
COUNTY OF DALLAS           §

This instrument was acknowledged before me on June 9, 2020, 2020 by Robert W. Witte, the Senior Managing Director of Hines Holdings, Inc., the general partner of Hines Interests Limited Partnership, the general partner of Hines Lakewood Associates LP, the sole member of Hines Lakewood MM LLC, the managing member of HH Lakewood LLC, on behalf of said entities.

  
\_\_\_\_\_  
Signature of Notary Public

[Personalized Notary Seal]



## EXHIBIT A

(Legal Description of the Property)

A 52.069 ACRE TRACT OF LAND SITUATED IN THE JAMES STONE SURVEY, ABSTRACT NO. 847 AND THE ISAAC C. WILLIAMSON SURVEY, ABSTRACT NO. 948, TOWN OF PROSPER, COLLIN COUNTY, TEXAS, AND BEING PART OF A 121.388 ACRE TRACT OF LAND, CONVEYED TO HH LAKEWOOD, LLC, AS RECORDED COUNTY CLERK'S FILE NUMBER 20181101001359210, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS. SAID 52.069 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (NAD83 (2011) EPOCH 2010), DETERMINED BY GPS OBSERVATIONS, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DENTON CORS ARP (PID-DF8986) AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING** AT A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR THE SOUTHWEST CORNER OF LOT 1X, BLOCK A OF LAKEWOOD, PHASE 2, AN ADDITION TO THE TOWN OF PROSPER, AS RECORDED IN COUNTY CLERK'S FILE NO. \_\_\_\_\_, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, THE COMMON SOUTHEAST CORNER OF LAKEWOOD DRIVE, (A 60' RIGHT-OF-WAY) OF LAKEWOOD, PHASE 1, AN ADDITION TO THE TOWN OF PROSPER, AS RECORDED IN COUNTY CLERK'S FILE NO. 20170623010003030, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, SAME BEING THE SOUTHEAST CORNER OF SAID LAKEWOOD, PHASE 1, AND THE COMMON NORTHEAST CORNER OF LAKEWOOD DRIVE, AN ADDITION TO THE TOWN OF PROSPER, AS RECORDED IN COUNTY CLERK'S FILE NO. 20170622010003010, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS, AND BEING ON THE NORTH LINE OF A TRACT OF LAND CONVEYED TO 55 PROSPER, L.P., AS RECORDED IN COUNTY CLERK'S FILE NO. 20120111000035080, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS;

THENCE, NORTH 89 DEGREES 50 MINUTES 18 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LAKEWOOD, PHASE 2 AND THE COMMON NORTH LINE OF SAID 55 PROSPER, L.P. TRACT, A DISTANCE OF 443.17 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR THE **POINT OF BEGINNING**, SAID POINT BEING THE SOUTHEAST CORNER OF SAID LAKEWOOD, PHASE 2;

THENCE, ALONG THE EAST LINE OF SAID LAKEWOOD, PHASE 2 AND OVER AND ACROSS SAID 121.388 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 00 DEGREES 09 MINUTES 42 SECONDS WEST, A DISTANCE OF 205.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 89 DEGREES 50 MINUTES 18 SECONDS WEST, A DISTANCE OF 10.45 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 45 DEGREES 09 MINUTES 42 SECONDS WEST, A DISTANCE OF 14.14 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 00 DEGREES 09 MINUTES 42 SECONDS WEST, A DISTANCE OF 120.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR THE NORTHEAST CORNER OF SAID LAKEWOOD, PHASE 2;

THENCE, SOUTH 89 DEGREES 50 MINUTES 18 SECONDS WEST, ALONG THE NORTH LINE OF SAID LAKEWOOD, PHASE 2 AND CONTINUING OVER AND ACROSS SAID 121.388 ACRE TRACT, A DISTANCE OF 510.77 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR THE NORTHWEST CORNER OF SAID LAKEWOOD, PHASE 2, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF AFORESAID LAKEWOOD DRIVE OF SAID LAKEWOOD, PHASE 1. SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 04 DEGREES 46 MINUTES 45 SECONDS, A RADIUS OF 1260.00 FEET, AND A LONG CHORD THAT BEARS NORTH 25 DEGREES 10 MINUTES 42 SECONDS WEST, A DISTANCE OF 105.07 FEET;

THENCE, ALONG THE EAST RIGHT-OF-WAY LINE OF SAID LAKEWOOD DRIVE, THE FOLLOWING COURSES AND DISTANCES:

ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 105.10 FEET TO A 1/2" IRON ROD WITH CAP STAMPED "CORWIN ENG. INC." FOUND FOR CORNER;

NORTH 27 DEGREES 34 MINUTES 05 SECONDS WEST, A DISTANCE OF 846.39 FEET TO A 1/2" IRON ROD FOUND FOR CORNER, AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 27 DEGREES 15 MINUTES 58 SECONDS, A RADIUS OF 770.00 FEET, AND A LONG CHORD THAT BEARS NORTH 13 DEGREES 56 MINUTES 05 SECONDS WEST, A DISTANCE OF 362.98 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 366.43 FEET TO A 1/2" IRON ROD FOUND FOR CORNER;

NORTH 00 DEGREES 18 MINUTES 06 SECONDS WEST, A DISTANCE OF 86.15 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR CORNER AT THE SOUTHEAST END OF A ROUND-ABOUT AT SAID EAST RIGHT-OF-WAY LINE AND SOUTH RIGHT-OF-WAY LINE OF MEADOWBROOK BOULEVARD, (A VARIABLE WIDTH RIGHT-OF-WAY) OF SAID LAKEWOOD, PHASE 1. SAID POINT BEING THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 97

DEGREES 41 MINUTES 44 SECONDS, A RADIUS OF 45.00 FEET, AND A LONG CHORD THAT BEARS NORTH 48 DEGREES 32 MINUTES 29 SECONDS EAST, A DISTANCE OF 67.77 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 76.73 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "JACOBS" FOUND FOR CORNER, AND THE BEGINNING OF A COMPOUND CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 00 DEGREES 27 MINUTES 19 SECONDS, A RADIUS OF 1150.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 82 DEGREES 22 MINUTES 59 SECONDS EAST, A DISTANCE OF 9.14 FEET;

THENCE, ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID MEADOWBROOK BOULEVARD AND SAID COMPOUND CURVE TO THE RIGHT, AN ARC DISTANCE OF 9.14 FEET TO A 1/2" IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID MEADOWBROOK BOULEVARD;

THENCE, ALONG THE EAST LINE OF SAID LAKEWOOD, PHASE 1, THE FOLLOWING COURSES AND DISTANCES:

NORTH 07 DEGREES 50 MINUTES 41 SECONDS EAST, A DISTANCE OF 85.00 FEET TO A STONE COLUMN FOUND FOR CORNER;

NORTH 35 DEGREES 27 MINUTES 51 SECONDS WEST, A DISTANCE OF 100.13 FEET TO A STONE COLUMN FOUND FOR CORNER;

NORTH 00 DEGREES 18 MINUTES 06 SECONDS WEST, A DISTANCE OF 282.17 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

THENCE, OVER AND ACROSS SAID 121.388 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES:

NORTH 89 DEGREES 50 MINUTES 18 SECONDS EAST, A DISTANCE OF 129.93 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 00 DEGREES 09 MINUTES 42 SECONDS WEST, A DISTANCE OF 32.02 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 89 DEGREES 50 MINUTES 18 SECONDS EAST, A DISTANCE OF 50.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 00 DEGREES 09 MINUTES 42 SECONDS EAST, A DISTANCE OF 109.86 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;



NORTH 89 DEGREES 50 MINUTES 18 SECONDS EAST, A DISTANCE OF 730.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 00 DEGREES 09 MINUTES 42 SECONDS EAST, A DISTANCE OF 320.92 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 45 DEGREES 02 MINUTES 25 SECONDS, A RADIUS OF 85.50 FEET, AND A LONG CHORD THAT BEARS SOUTH 67 DEGREES 19 MINUTES 06 SECONDS WEST, A DISTANCE OF 65.49 FEET;

ALONG SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 67.21 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 89 DEGREES 50 MINUTES 18 SECONDS WEST, A DISTANCE OF 270.80 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 00 DEGREES 09 MINUTES 42 SECONDS EAST, A DISTANCE OF 60.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 89 DEGREES 50 MINUTES 18 SECONDS EAST, A DISTANCE OF 274.85 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 43 DEGREES 58 MINUTES 35 SECONDS, A RADIUS OF 85.50 FEET, AND A LONG CHORD THAT BEARS SOUTH 68 DEGREES 10 MINUTES 25 SECONDS EAST, A DISTANCE OF 64.03 FEET;

ALONG SAID TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 65.62 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 97 DEGREES 06 MINUTES 23 SECONDS, A RADIUS OF 75.00 FEET, AND A LONG CHORD THAT BEARS NORTH 85 DEGREES 15 MINUTES 41 SECONDS EAST, A DISTANCE OF 112.44 FEET;

ALONG SAID REVERSE CURVE TO THE LEFT, AN ARC DISTANCE OF 127.11 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

NORTH 89 DEGREES 50 MINUTES 18 SECONDS EAST, A DISTANCE OF 395.05 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A NON-TANGENT

CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 06 DEGREES 43 MINUTES 27 SECONDS, A RADIUS OF 861.00 FEET, AND A LONG CHORD THAT BEARS NORTH 27 DEGREES 23 MINUTES 20 SECONDS EAST, A DISTANCE OF 100.99 FEET;

ALONG SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 101.05 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 59 DEGREES 45 MINUTES 14 SECONDS EAST, A DISTANCE OF 50.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER, AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 03 DEGREES 20 MINUTES 07 SECONDS, A RADIUS OF 811.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 29 DEGREES 06 MINUTES 52 SECONDS WEST, A DISTANCE OF 47.20 FEET;

ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 47.21 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER;

SOUTH 62 DEGREES 33 MINUTES 11 SECONDS EAST, A DISTANCE OF 131.00 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "LJA SURVEYING" SET FOR CORNER ON THE EAST LINE OF SAID 121.388 ACRE TRACT AND THE COMMON WEST LINE OF A 73.015 ACRE TRACT OF LAND CONVEYED AS TRACT 1 TO PROSPER ISD, AS RECORDED IN COUNTY CLERK'S FILE NO. 20181023001321670, OFFICIAL PUBLIC RECORDS, COLLIN COUNTY, TEXAS. SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 15 DEGREES 38 MINUTES 29 SECONDS, A RADIUS OF 680.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 19 DEGREES 37 MINUTES 34 SECONDS WEST, A DISTANCE OF 185.06 FEET;

THENCE, ALONG SAID COMMON LINE, AND ALONG THE WEST LINE OF AFORESAID 55 PROSPER, L.P. TRACT, AND ALONG SAID NON-TANGENT CURVE TO THE LEFT, AN ARC DISTANCE OF 185.64 FEET TO A 1/2" IRON ROD FOUND FOR CORNER;

THENCE, SOUTH 00 DEGREES 15 MINUTES 52 SECONDS EAST, CONTINUING ALONG THE EAST LINE OF SAID 121.388 ACRE TRACT AND THE COMMON WEST LINE OF SAID 55 PROSPER, L.P. TRACT, A DISTANCE OF 1401.21 FEET TO A 1/2" IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 121.388 ACRE TRACT AND A COMMON INTERIOR ELL CORNER OF SAID 55 PROSPER, L.P. TRACT;

THENCE, SOUTH 89 DEGREES 50 MINUTES 18 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 121.388 ACRE TRACT AND THE COMMON NORTH LINE OF SAID 55 PROSPER, L.P. TRACT, A DISTANCE OF 504.06 FEET TO THE **POINT OF BEGINNING** AND CONTAINING A CALCULATED AREA OF 52.069 ACRES OF LAND.



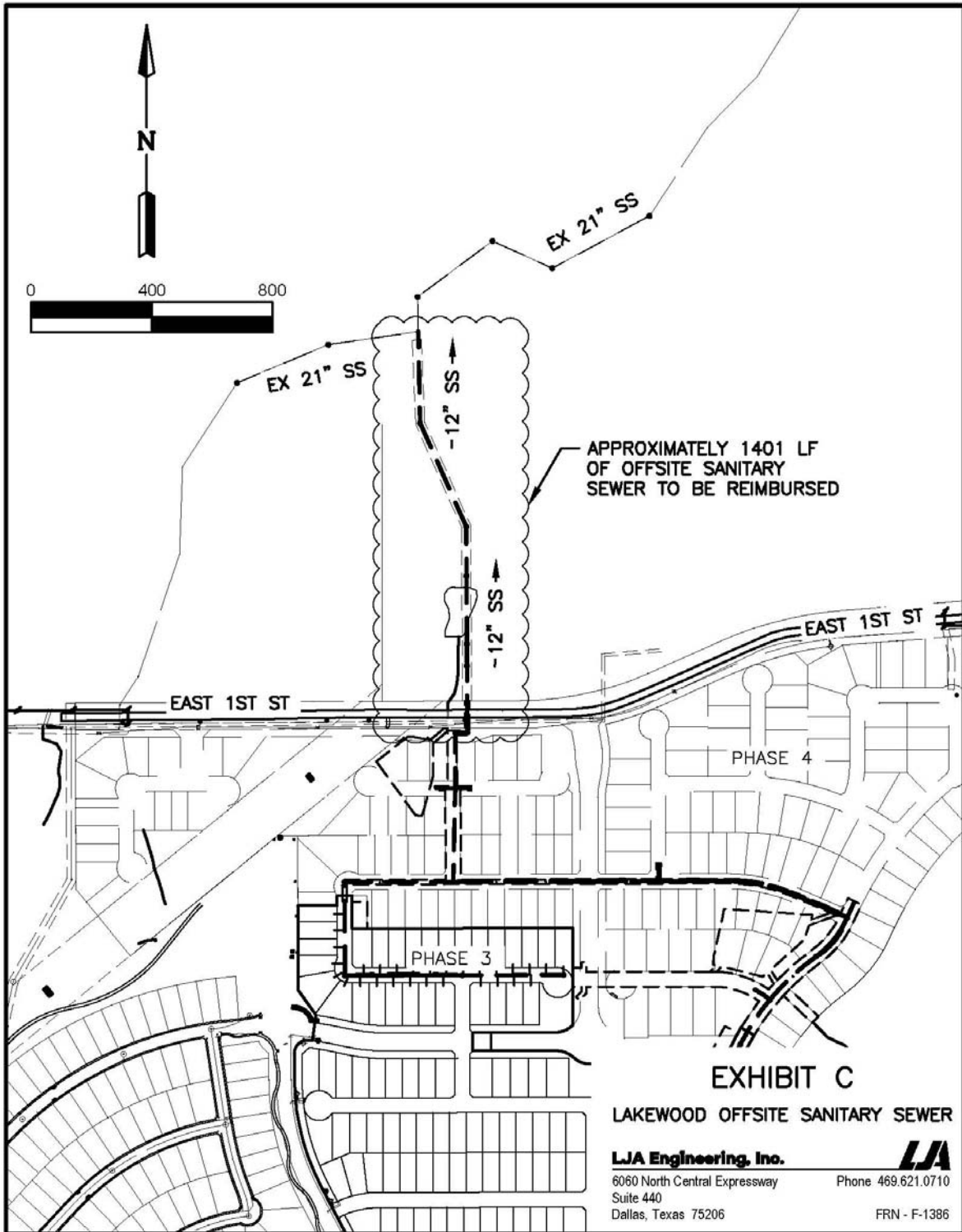
**EXHIBIT B**

(Third Party Sewer Improvement Easements)

None.

# EXHIBIT C

(General Location of Sewer Improvements)



## EXHIBIT D

(Estimated Construction Costs)

### BID FORM

### FOR

### UTILITY IMPROVEMENTS AT LAKEWOOD AT BROOKHOLLOW, PHASE 3

#### ARTICLE 5 - BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

#### SECTION A - SANITARY SEWER IMPROVEMENTS - OFFSITE

Item No.	Description	Unit	Quantity	Bid Unit Price	Bid Price
1	12" P.V.C., ASTM D3034, SDR-35 Sanitary Sewer (includes excavation, embedment, backfill, etc.)	LF	1,176	35.00	\$ 41,160.00
2	12" P.V.C., ASTM D3034, SDR-26 Sanitary Sewer (includes excavation, embedment, backfill, etc.)	LF	225	45.00	\$ 10,125.00
3	Steel Encasement	LF	170	247.00	\$ 41,990.00
4	5' Diameter Manhole (All depths including Excavation, Backfill, Manhole Frame, Bolted & Gasketed Cover, Manhole Inserts, False Bottom, etc.)	EA	3	5750.00	\$ 17,250.00
5	5' Diameter Manhole with Watertight & Sealed Pressure Lid (All depths including Excavation, Backfill, Manhole Frame, Bolted & Gasketed Cover, Manhole Inserts, False Bottom, etc.)	EA	3	6200.00	\$ 18,600.00
6	5' Diameter Vented Type S Manhole with Watertight & Sealed Pressure Lid (All depths including Excavation, Backfill, Manhole Frame, Bolted & Gasketed Cover, Manhole Inserts, False Bottom, etc.)	EA	1	7200.00	\$ 7,200.00
7	Connect to Existing 5' Diameter Manhole with Inside Drop Connection	EA	1	3950.00	\$ 3,950.00
8	Open Cut First Street for Offsite Sewer Alignment	LS	1	3400.00	\$ 3,400.00
9	Clearing & Grubbing Offsite Sanitary Sewer Easement	SY	4,670	2.50	\$ 11,675.00
10	Dewater Existing Pond	EA	1	40000.00	\$ 40,000.00
11	T.V. Testing	LF	1,401	1.00	\$ 1,401.00
12	Trench Safety	LF	1,401	0.10	\$ 140.10
13	Traffic Control	LS	1	2500.00	\$ 2,500.00
14	Maintenance Bond - 2 Yr, 100%	LS	1	1500.00	\$ 1,500.00
<b>SECTION A - SANITARY SEWER IMPROVEMENTS - OFFSITE TOTAL:</b>					<b>\$ 200,891.10</b>

Lakewood at Brookhollow, Phase 3

January 27, 2019

LJA #NT480-0016

**SECTION B - EROSION CONTROL - OFFSITE**

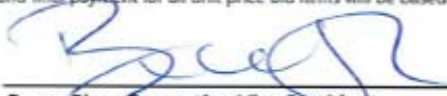
Item No.	Description	Unit	Quantity	Bid Unit Price	Bid Price
1	Silt Fence	LF	2,462		\$ \$10,094.20
2	Rock Check Dam	EA	2		\$ 800.00
3	Construction Entrance	EA	1		\$ 3,000.00
<b>SECTION B - EROSION CONTROL - OFFSITE TOTAL:</b>					<b>\$ \$13,894.20</b>

**BID SUMMARY**

<b>SECTION A - SANITARY SEWER IMPROVEMENTS - OFFSITE</b>	<b>\$ \$200,894.10</b>
<b>SECTION B - EROSION CONTROL - OFFSITE</b>	<b>\$ \$13,894.20</b>
<b>TOTAL BASE BID:</b>	<b>\$ \$214,785.30</b>

**Number of Calendar Days to Complete:** \_\_\_\_\_

Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

  
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Bryan Piper Executive Vice President

Date 2/26/2020